(3) (1)

C.S.(A) — Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.No. 966 /2005

Petitioner

P.R. No. 1090/05
Presented by Shri Ajay Sharma
dated 14-03-05

Basant Kumar S/o. Parsadi Sahu, aged about 60 years, R/o.Bharkapara, Rajnandgaon, District Rajnandgaon (C.G.)

VERSUS

Respondents

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: 1) State of Chhattisgarh
Through Secretary (Revenue)
Government of Chhattisgarh
D.K.S.Bhavan, Mantralaya
Raipur (C.G.)

: 2) Collector
District Rajnandgaon (C.G.)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, ORDER/ORDERS, DIRECTION/DIRECTIONS ECT.

XI-HC-22

(57)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...W.P.966/... **सन्** **2005**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

17-3-2005

Mr. Gautam Bhaduri, counsel for the petitioner.

Mr. Bhaskar Pyasi, Panel Lawyer for the State/respondents.

Heard both the counsel on admission.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, being aggrieved by the order dated 2nd March, 2005, passed by the Board of Revenue, Chhattisgarh, Bilaspur, in Revenue Case No.983/A-68/2002-2003, whereby the appeal preferred by the petitioner against the order of the Sub Divisional Officer has been dismissed.

Brief facts leading to filing of this writ petition are that the Assistant Nazul Inspector made a report on 10-12-2002 to the effect that the petitioner herein is using the Government land situated at sheet No.48-D, plot No.60 admeasuring 118.02 sq. ft. out of 1,309 sq. meter, and he is using the Government land for keeping the beetle trolley. Now the petitioner has started digging the plot for Pucca construction. On this report, the Naib Tehsildar, Rajnandgaon registered Revenue Case No.40-A-68/2002-2003 and started proceedings. The Inspector also filed site plan of the place and thereafter, the statement of the Inspector was recorded and one Anasuya Bai also filed objection. On this, the Tehsildar, Rajnandgaon, vide his order dated 5-2-2003 imposed a fine of Rs.500/- under the provisions of Section 248 of the

(पीछे देखिये)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(58)

आदेश पत्रक

मामला क्रमांक W.P.966/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Chhattisgarh Land Revenue Code, 1959, and the encroachment of the petitioner was removed, against which the petitioner preferred an appeal before the Sub Divisional Officer, Rajnandgaon, the same was rejected by the SDO vide order dated 20th May, 2003, against which the petitioner herein preferred an appeal before the Board of Revenue. Rejecting the petitioner's contention, the Revenue Board dismissed the appeal.

Learned counsel for the petitioner submits that the land in question was given to the petitioner on lease in the year 1961 and the renewal of the same was done from 1-4-1986 to 31-3-1989. In the year 1996, the petitioner started digging the plinth for the purpose of Pucca construction. On this the Tehsildar passed the order. Learned counsel further submits that the petitioner is in possession of the land in question since 1961 and this land was given to him on lease. When the Inspector made report, the Tehsildar before passing any order had not given any opportunity to the petitioner to cross-examine the Inspector, therefore, the order was bad in law.

But the petitioner has not been able to establish and bring anything on record that this lease was renewed in favour of the petitioner from time to time and he is continuously paying the lease money. Neither the petitioner is paying lease money nor there is any order of renewal in his favour. Therefore, the petitioner was not

(पीछे देखिये)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (59)

आदेश पत्रक

मामला क्रमांक W.P.966/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

entitled to continue in possession and treating him as trespasser, the Tehsildar passed the order.

In the circumstances, I am of the opinion that the Tehsildar had not exceeded his jurisdiction or he has not passed any order for which he is not authorized to proceed in accordance with law. As such, the petitioner is not able to make out a case for interference by this Court with the order impugned, while exercising the jurisdiction under Article 227 of the Constitution of India. The writ petition is therefore, liable to be dismissed and it is accordingly, dismissed, at the admission stage itself. No order as to costs.

Consequently, M.(W.)P.No.772/2005 and I.A.No.1856/2005 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)